

GENERAL NOTICE LETTER AND DEMAND FOR PAYMENT
URGENT LEGAL MATTER; PROMPT REPLY NECESSARY
CERTIFIED MAIL: RETURN RECEIPT REQUESTED

[]

Re: General Notice Letter for the Gulfco Marine Maintenance Superfund Site, Freeport, Brazoria County, Texas SSID NO.06JZ

Dear :

The U.S. Environmental Protection Agency (EPA) has received and reviewed your [], response to its [], Information Request, which was sent to [] in connection with the Gulfco Marine Maintenance Superfund Site located in Freeport, Brazoria County, Texas (Site). The Site was listed on the National Priorities List (NPL) on May 30, 2003. Based on your response and other available information, EPA has determined that you may be responsible under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as the federal "Superfund" law, for cleanup of the Site and/or costs EPA has incurred in cleaning up the Site.

Site Background

The Site is a former barge cleaning, sand blasting, and repair facility operated from 1971 to 1998. Current information indicates Gulfco Marine Maintenance, Inc., was the original operator of the facility from 1971 to 1979. Barges brought to the facility were cleaned of waste oil, caustics, and organic compounds, and wash waters were stored in surface impoundments. Fish Engineering and Construction operated the facility from 1979 to 1989. During its ownership and operation of the facility, chemical barges were drained and residual product heels were removed. Cleaning using hot water and a detergent solution then took place, followed by barge repairs. Product heels were stored on-site until sold and wash waters were stored in impoundments until sent off-site. During Fish Engineering and Construction's ownership, the impoundments were closed in accordance with a closure plan approved by the Texas Water Commission. Three feet of clay was used to cap the impoundments. Hercules Offshore Corporation, and their subsequent entities, operated the Site from 1989 through their bankruptcy in 1998. Operations paralleled those of Fish Engineering and Construction. LDL entities then acquired the majority of Site through bankruptcy in 1999. LDL leased the Site to Eco-Terra Technologies Group, LLC for five months in an attempt to start an oil recycling facility.

Investigations have indicated the surface storage tanks located in the concrete berm area contained volatile organic compounds including benzene, chloroform, dichloroethane, and trichloroethylene until they were removed during a PRP conducted Removal Action in Spring 2011. Site contaminants include polycyclic aromatic hydrocarbons, pesticides, chlorinated hydrocarbons, and metals. The Gulfco Restoration Group, comprised of potentially responsible parties, has conducted the Remedial Investigation and Feasibility Study under a Unilateral Administrative Order. The Gulfco Restoration

Group also conducted a removal of above-ground storage tanks that contain hazardous substances from the barge cleaning operations pursuant to an Administrative Settlement Agreement and Order on Consent for Removal Action.

Explanation of Potential Liability

Under CERCLA, specifically Sections 106(a) and 107(a), potentially responsible parties (PRPs) may be required to perform cleanup actions to protect the public health, welfare, or the environment. PRPs may also be responsible for costs incurred by EPA in cleaning up the Site, unless the PRP can show any of the statutory defenses. PRPs include current and former owners and operators of a Site, as well as persons who arranged for treatment and/or disposal of any hazardous substances found at the site, and persons who accepted hazardous substances for transport and selected the site to which the hazardous substances were delivered.

Information available, including your response to the request for information, indicates that you may be a responsible party under Section 107(a) of CERCLA with respect to the Site as an arranger, who by contract or agreement, arranged for the disposal, treatment or transportation of hazardous substances at the Site.

By this letter, EPA notifies you of your potential liability with regard to this matter. EPA also encourages you, as a PRP, to reimburse EPA for the costs incurred to date as set out below, and to prepare to voluntarily perform or finance future response activities which EPA determines are necessary to address the contamination at the Site.

Demand for Payment of Costs

In accordance with CERCLA and other authorities, EPA has undertaken certain actions and incurred costs in response to conditions at the Site. These response actions are described below. The costs to date associated with these actions are approximately \$ [REDACTED] million, excluding interest. EPA anticipates that it will expend additional funds for response activities at the Site under the authority of CERCLA and other laws, including those response activities described below.

In accordance with Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), demand is hereby made for payment of the above amount, and all interest authorized to be recovered under that Section or under any other provisions of law. Demand is also hereby made under these authorities for payment of all future costs, and interest thereon, that EPA may accrue in regard to the Site.

Site response actions and Site costs may include, but are not limited to, expenditures for related to the Remedial Investigation/ Feasibility Study, preparing the Proposed Plan and Record of Decision, the Remedial Design/Remedial Action, and other investigation, planning, response oversight, and enforcement activities. In addition, PRPs may be required to pay for damages for injury to, destruction of or loss of natural resources, including the cost of assessing such damages.

To date, EPA and the State of Texas have taken the following response actions at the Site under the authority of the Superfund Program. Below is a brief description of the actions taken at the Site.

[GARY PLEASE DESCRIBE THE ACTIONS TAKEN AT THE SITE BY EPA]

A Site Investigation (SI) in order to gain a basic understanding of any risks posed to human health and/or the environment by releases or threatened releases from the Site.

Proposed the Site for addition to the National Priorities List (NPL). The NPL is the list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States and its territories.

Financial Concerns/Ability to Pay Settlements

EPA is aware that the financial ability of some PRPs to contribute toward the payment of response costs at a site may be substantially limited. If you believe, and can provide documentation, that you fall within that category, please contact Lawrence Andrews, Litigation Coordinator Officer at (214) 665-7397 for information on "Ability to Pay Settlements." In response, you will receive a package of information about the potential for such settlements and a form to fill out with information about your finances, and you will be asked to submit financial records including business federal income tax returns. If EPA concludes that [] has a legitimate inability to pay the full amount of EPA's costs, EPA may offer a schedule for payment over time or a reduction in the total amount demanded from you.

Also, please note that, because EPA has a potential claim against you, you must include EPA as a creditor if you file for bankruptcy.

Information to Assist You

EPA would like to encourage communication between [] and EPA at the Site. To assist you in your efforts to communicate, please find the following attached information:

A fact sheet that describes the Site.

The Federal Register Notice Listing the Site on the NPL.

The EPA has established an Administrative Record containing documents that serve as the basis for EPA's selection of a cleanup action for the Site. The Administrative Record will be available to you and the public for inspection and comment at:

EPA Region 6 Records Center
1445 Ross Ave
Dallas, Texas 75230

Resources and Information for Small Businesses

As you may be aware, on January 11, 2002, President Bush signed into law the Superfund Small Business Liability Relief and Brownfields Revitalization Act. This Act contains several exemptions and defenses to CERCLA liability, which we suggest that all parties evaluate. You may obtain a copy of the law via the Internet at: <http://www.epa.gov/swerosps/bf/sblrbra.htm>, and review EPA guidance regarding these exemptions at: <http://www.epa.gov/compliance/resources/policies/cleanup/superfund>.

EPA has also created a number of helpful resources for small businesses. EPA has established the National Compliance Assistance Clearinghouse as well as Compliance Assistance Centers, which offer various forms of resources to small businesses. You may inquire about these resources at www.epa.gov. In addition, the EPA Small Business Ombudsman may be contacted at www.epa.gov/sbo. Finally, EPA developed a fact sheet about the Small Business Regulatory Enforcement Fairness Act (SBREFA), which is enclosed with this letter.

Please give these matters your immediate attention and consider consulting with an attorney. If you or your attorney have any legal questions, please contact Anne Foster, Assistant Regional Counsel at (214) 665-2169. If you have any technical questions about the Site, you may contact Gary Miller, Remedial Project Manager at (214) 665-8318. If you have any other questions regarding this letter, please contact Lawrence Andrews, Litigation Coordinator at 214-665-7397. Thank you for your prompt attention to this matter.

Sincerely,

Pamela Phillips, Acting Director
Superfund Division

Enclosures ()